



Entered on Docket
March 22, 2007

Hon. Linda B. Riegle
United States Bankruptcy Judge

Annette W. Jarvis, Utah Bar No. 1649
Steven C. Strong, Utah Bar No. 6340
RAY QUINNEY & NEBEKER P.C.
36 South State Street, Suite 1400
P.O. Box 45385
Salt Lake City, Utah 84145-0385
Telephone: (801) 532-1500
Facsimile: (801) 532-7543
Email: ajarvis@rqn.com

Lenard E. Schwartzer, NV Bar No. 0399
Jeanette E. McPherson, NV Bar No. 5423
SCHWARTZER & MCPHERSON LAW FIRM
2850 South Jones Boulevard, Suite 1
Las Vegas, Nevada 89146-5308
Telephone: (702) 228-7590
Facsimile: (702) 892-0122
E-Mail: bkfilings@s-mlaw.com

12 Attorneys for Debtors and Debtors-in-Possession

13 **UNITED STATES BANKRUPTCY COURT**
14 **DISTRICT OF NEVADA**

15 In re:

16 USA COMMERCIAL MORTGAGE COMPANY,
17 Debtor.

Case Nos. BK-S-06-10725 LBR
Case Nos. BK-S-06-10726 LBR
Case Nos. BK-S-06-10727 LBR
Case Nos. BK-S-06-10728 LBR
Case Nos. BK-S-06-10729 LBR

18 In re:

19 USA CAPITAL REALTY ADVISORS, LLC,
20 Debtor.

Chapter 11

Jointly Administered Under
Case No. BK-S-06-10725 LBR

21 In re:

22 USA CAPITAL DIVERSIFIED TRUST DEED
23 FUND, LLC,
24 Debtor.

**ORDER DENYING
(1) EMERGENCY EX PARTE
MOTION FOR CONTINUANCE
OF HEARING, AND
(2) MOTION FOR LIMITED
STAY PENDING APPEAL**

25 Affects:

- All Debtors
- USA Commercial Mortgage Company
- USA Securities, LLC
- USA Capital Realty Advisors, LLC
- USA Capital Diversified Trust Deed Fund, LLC
- USA Capital First Trust Deed Fund, LLC

Hearing Date: March 1, 2007
Hearing Time: 9:30 a.m. PST

1 The matters before the Court are: (1) a Motion for Limited Stay Pending Appeal [Docket
 2 No. 2848] (“Motion for Stay”), and (2) an Emergency *Ex Parte* Motion for Continuance of
 3 Hearing on the Motion for Stay [Docket No. 2925] (“Motion for Continuance”) both of which
 4 were filed on behalf of the “Lenders Protection Group” (“LPG”) and the Charles B. Anderson
 5 Trust, Rita P. Anderson Trust, Blates Company, Kehl Family Members and Mojave Canyon, Inc.
 6 (“Jones Vargas Direct Lenders”) (collectively, the “Appellants”). Pursuant to the Order
 7 Shortening Time Regarding Appellants’ Motion for Stay Pending Appeal [Docket No. 2878],
 8 entered at the request of the Appellants [Docket Nos. 2849-2855], a hearing on the Appellants’
 9 Motion for Stay was held on March 1, 2007, at which time the Appellants’ Motion for
 10 Continuance was also considered by the Court. Kevin A. Darby of The Law Offices of Alan
 11 Smith appeared on behalf of LPG; Janet L. Chubb of Jones Vargas appeared on behalf of the
 12 Jones Vargas Direct Lenders; Annette W. Jarvis of Ray Quinney & Nebeker, P.C. and Lenard E.
 13 Schwartzer of Schwartzer & McPherson Law Firm appeared on behalf of the Debtors, USA
 14 Commercial Mortgage Company, USA Capital First Trust Deed Fund, LLC, USA Capital
 15 Diversified Trust Deed Fund, LLC, USA Capital Realty Advisors, LLC, and USA Securities, LLC
 16 (collectively, the “Debtors”); Susan M. Freeman and Robert M. Charles of Lewis and Roca, LLP
 17 appeared on behalf of the Official Unsecured Creditors’ Committee for USA Commercial
 18 Mortgage Company (“USACM Committee”); Frank A. Merola and Eve H. Karasik of Stutman,
 19 Treister & Glatt, P.C. appeared on behalf of the Official Committee of Equity Security Holders of
 20 USA Capital First Trust Deed Fund, LLC (“FTDF Committee”); Jeffrey D. Hermann of Orrick,
 21 Herrington & Sutcliffe LLP appeared on behalf of the Official Committee of Equity Security
 22 Holders of USA Capital Diversified Trust Deed Fund, LLC; and Gregory E. Garman of Gordon &
 23 Silver, Ltd. appeared on behalf of Official Committee of Holders of Executory Contracts Rights
 24 through USA Commercial Mortgage Company.

25 The Court has reviewed the Motion for Stay, the Motion for Continuance; the Declaration
 26 of Kevin A. Darby filed in support of the Motion for Continuance [Docket No. 2926]; the
 27 Debtors’ Opposition to Motion for Limited Stay Pending Appeal and the Exhibits attached thereto
 28 [Docket No. 2915] (“Debtors’ Opposition”); the Declaration of Susan M. Smith filed in support of

1 the Debtors' Opposition [Docket No. 2916]; the Joinder in the Debtors' Opposition filed by the
 2 USACM Committee [Docket No. 2929]; the Opposition to the Motion for Stay and Joinder in
 3 Debtors' Opposition filed by the FTDF Committee [Docket No. 2917]; and the nine Declarations
 4 that were filed by LPG just prior to the hearing in support of the Motion for Stay [Docket Nos.
 5 2931-2939] (collectively, the "Pre-Hearing Declarations"). During the hearing, LPG filed twenty-
 6 one additional Declarations in support of the Motion for Stay [Docket Nos. 2940-2961] (together
 7 with the Pre-Hearing Declarations, the "LPG Declarations"). Based on a review of all of these
 8 documents and the applicable law, for the reasons stated by the Court on the record as its findings
 9 of fact and conclusions of law, which are incorporated herein by reference, and for good cause
 10 showing,

11 IT IS HEREBY ORDERED that:

12 (1) The Motion for Continuance is DENIED;
 13 (2) The LPG Declarations are STRICKEN; and
 14 (3) The Motion for Stay is DENIED.

15 Submitted by:
 16 RAY QUINNEY & NEBEKER P.C.
 17 and SCHWARTZER & MCPHERSON LAW
 FIRM

18 By: /s/ Jeanette E. McPherson
 19 LENARD E. SCHWARTZER, ESQ.
 JEANETTE E. MCPHERSON, ESQ.
 20 ANNETTE W. JARVIS, ESQ.
 STEVEN STRONG, ESQ.
Counsel for Debtors

22 Approved/Disapproved by:
 23 LEWIS AND ROCA, LLP

24 By: /s/ Susan M. Freeman
 25 SUSAN M. FREEMAN, ESQ.
 ROB CHARLES, ESQ.
*Counsel for the Official Committee of
 Unsecured Creditors of USA Commercial
 Mortgage Company*

Approved/Disapproved by:
 LAW OFFICES OF ALAN R. SMITH
 and JONES VARGAS

By: _____
 ALAN R. SMITH, ESQ.
 KEVIN A. DARBY, ESQ.
 JANET L. CHUBB, ESQ.
 LOUIS M. BUBALA, III, ESQ.
Counsel for Lenders Protection Group

Approved/Disapproved by:
 GORDON & SILVER, LTD.

By: /s/ Gerald M. Gordon
 GERALD M. GORDON, ESQ.
 GREGORY E. GARMAN, ESQ.
*Counsel for the Official Committee of
 Holders of Executory Contract Rights of
 USA Commercial Mortgage Company*

1 **ORDER DENYING (1) EMERGENCY *EX PARTE* MOTION FOR CONTINUANCE**
2 **OF HEARING, AND (2) MOTION FOR LIMITED STAY PENDING APPEAL**

3 Approved/Disapproved by:
4 ORRICK, HERRINGTON & SUTCLIFFE LLP
and BECKLEY SINGLETON, CHTD.

3 Approved/Disapproved by:
4 STUTMAN TREISTER & GLATT, P.C. and
SHEA & CARLYON, LTD.

5 By: /s/ Marc A. Levinson
6 MARC A. LEVINSON, ESQ.
7 JEFFERY HERMANN ESQ.
8 BOB L. OLSON, ESQ.
9 ANNE M. LORADITCH, ESQ.
10 *Counsel for the Official Committee of
Equity Security Holders of USA Capital
Diversified Trust Deed Fund, LLC*

5 By: /s/ Eve Karasik
6 FRANK A. MEROLA, ESQ.
7 EVE KARASIK, ESQ.
8 CHRISTINE PAJAK, ESQ.
9 CANDACE C. CARLYON, ESQ.
10 *Counsel for the Official Committee of
Equity Security Holders of USA Capital
First Trust Deed Fund LLC*

11 In accordance with LR 9021, counsel submitting this document certifies as follows (check one):

12 The court has waived the requirement of approval under LR 9021.
13 No parties appeared or filed written objections, and there is no trustee appointed in the case.
14 On March 15, 2007 I delivered a copy of this proposed order to all counsel who appeared at
15 the hearing, any unrepresented parties who appeared at the hearing, and any trustee appointed in
16 this case, and each has approved or disapproved the order, or failed to respond, as indicated below
17 [list each party and whether the party has approved, disapproved, or failed to respond to the
18 document]:

19 ***Failed to respond: LAW OFFICES OF ALAN R. SMITH and JONES VARGAS***

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